



FEDERAL ELECTION COMMISSION
Washington, DC 20463

MEMORANDUM

TO: The Commission

FROM: Lawrence H. Norton
General Counsel

SEP 03 2002

BY: Rhonda J. Vosdingh *RJ*
Associate General Counsel

Mark D. Shonkwiler *MS*
Assistant General Counsel

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RE: MUR 4568, 4633, 4634 and 4736
Recommendation to Rescind Commission Action Severing Certain
Respondents from MURs 4568, 4633, 4634 and 4736; and To Sever
and Transfer Certain Other Respondents from MUR 4736

ACTION RECOMMENDED: On a 48-hour tally vote basis, 1) re-open MUR 5294; 2) rescind the Commission action severing respondents Robert Riley, Jr., the Bob Riley for Congress Committee and Hughel Goodgame, as treasurer, and the Honorable Robert Riley from MURs 4568, 4633, 4634 and 4736; 3) Sever Respondents Peter Cloeren, Patricia Cloeren, Brian Babin, Brian Babin for Congress and Thomas Freeman, as treasurer, from MUR 4736, transfer them to MUR 5294, and 4) close the file in MUR 5294.

DISCUSSION:

On August 27, 2002, the Commission severed thirty-one (31) respondents from MURs 4568, 4633, 4634 and 4736; transferred their files to a newly opened MUR (which was designated as MUR 5294), which was immediately closed. This action will result in dispositive materials as to these respondents being placed on the public record. See August 22, 2002 General Counsel's Report. For reasons set forth below, this Office recommends that the Commission re-open MUR 5294 in order to rescind the action as to certain respondents who

1 should not have been severed and transferred and to sever and transfer other respondents who
2 were omitted from the earlier action.

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4 A. Rescinding Commission Action as to the Riley Respondents

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6 The respondents who were severed and transferred to the new MUR included Robert
7 Riley, Jr., the Bob Riley for Congress Committee and Hughel Goodgame, as treasurer, and the
8 Honorable Robert Riley. This Office's August 22, 2002 Report recommending severing the
9 thirty-one (31) Triad respondents from MURs 4568, 4633, 4634 and 4736 indicated that the file
10 already had been closed as to each of the respondents. Upon further review, it has been
11 determined that the file had never been closed as to Robert Riley, Jr. and the Bob Riley for
12 Congress Committee and Hughel Goodgame, as treasurer. The files as to these respondents were
13 left open because the January 2002 Conciliation Agreement entered into with these respondents
14 contained an unusual provision, which states in pertinent part that:

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16 The file in this matter will remain open until MURs 4568, 4633,
17 4634 and 4736 have been closed in accordance with 11 C.F.R.
18 §111.20. During this time Respondents may supplement the
19 record. Respondents represent they will make a submission
20 supplementing this file.

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22 Section VI, paragraph 3. On March 27, 2001, at the same time that it made PCTB
23 findings as to Robert Riley, Jr. and the Bob Riley for Congress Committee and Hughel
24 Goodgame, as treasurer, the Commission determined to take no further action and close
25 the file in MURs 4568, 4633, 4634 and 4736 with respect to Congressman Robert Riley.

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27 Pursuant to the conciliation agreement, the files as to Robert Riley, Jr. and the
28 Bob Riley for Congress Committee and Hughel Goodgame, as treasurer, cannot be closed
29 prior to complete closure of MURs 4568, 4633, 4634 and 4736. These respondents
30 should not have been severed from the Triad MURs and transferred into MUR 5294
31 along with respondents as to whom the file had been closed. Accordingly, this Office
32 recommends that the Commission rescind its action severing and transferring Robert
33 Riley, Jr. and Hughel Good game, as treasurer, from MURs 4568, 4633, 4634 and 4736.
34 The files as to these respondents will remain open until the original Triad MURs are
35 closed as to all respondents.

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37 Given the relationship between Congressman Robert Riley and the other Riley
38 respondents as to whom the files must remain open, it also is advisable to rescind the
39 Commission's August 27, 2002 action as to Congressman Riley. Public disclosure of the
40 file as to Congressman Riley while the file remains open as to the other Riley respondents
41 could mislead the public as to the resolution of the fact pattern involving the other Riley
respondents. Accordingly, this Office recommends that the Commission rescind its

1 action severing and transferring the Honorable Robert Riley from MURs 4568, 4633,
2 4634 and 4736. The file as to the Congressman will remain part of the original Triad
3 MURs, and will be released along with the files as to the other Riley respondents when
4 the original MURs are closed as to all respondents.¹

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6 B. Severing and Transferring Additional Respondents from MUR 4736

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8 Due to an oversight, the August 22, 2002 General Counsel's Report failed to list
9 Peter Cloeren, Patricia Cloeren, Brian Babin and Brian Babin for Congress and Thomas
10 Freeman, as treasurer, as respondents to whom the file had previously been closed, and
11 thus could be severed and transferred to a new MUR that would be closed to allow for
12 public disclosure of the dispositive materials. These five respondents were originally
13 named in the complaint from MUR 4783, portions of which were severed and transferred
14 to MUR 4736 when the Commission made RTB findings on July 23, 1999. For
15 procedural reasons, these respondents were never cross-named in MURs 4568, 4633 and
16 4634. The Commission closed its file as to each of these five respondents in 1991 when
17 it voted to take no further action against Peter and Patricia Cloeren and when it accepted a
18 conciliation agreement in MUR 4736 with Brian Babin and Brian Babin for Congress and
19 Thomas Freeman, as treasurer.

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21 For the reasons set forth previously in the August 22, 2002 General Counsel's
22 Report, this Office recommends that Peter Cloeren, Patricia Cloeren, Brian Babin and
23 Brian Babin for Congress and Thomas Freeman, as treasurer, be severed from MUR 4736
24 and transferred to MUR 5254. The files as to these respondents contain material that may
25 be relevant to the BCRA litigation.

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27 This Office also recommends that the Commission close MUR 5294. Approving
28 the recommendations contained within this memorandum on an expedited basis is
29 necessary to permit the closing process with respect to MUR 5294 to proceed in a timely
30 fashion.

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32 RECOMMENDATIONS

- 33 1. Re-open MUR 5294.

**MURs 4568, 4633, 4634 and 4736, and MUR 5294
Memorandum Recommending Rescission of Action
To Sever and Transfer Certain Respondents; and to
Recommend that the Commission Sever and Transfer
Certain Additional Respondents from MUR 4736**

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- 1 2. Rescind the Commission action severing and transferring Robert Riley, Jr., and the
2 Bob Riley for Congress Committee and Hughel Goodgame, as treasurer, and the
3 Honorable Robert Riley from MURs 4568, 4633, 4634 and 4736.
- 4 3. Sever Peter Cloeren, Patricia Cloeren, Brian Babin and Brian Babin for Congress and
5 Thomas Freeman, as treasurer, from MUR 4736, transfer them to MUR 5294.
- 6 4. Close MUR 5294.
- 7 5. Approve the appropriate letters.
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